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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/673,643

09/30/2003

Victor T. Massey

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28410 7590 12/08/2009

BERENATO & WHITE, LLC
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA, MD 20817

EXAMINER

STRIMBU, GREGORY J

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

12/08/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/673,643

Applicant(s)

MASSEY ET AL.

Examiner

Gregory J. Strimbu

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 08 October 2009 and 08 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 49-87 is/are pending in the application.
- 4a) Of the above claim(s) 71-80 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 49-70 and 81-87 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Election/Restrictions

Per the restriction requirement of April 17, 2007, claims 71-80 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on May 14, 2007.

Claim Rejections - 35 USC § 112

Claims 50, 58-64 and 81-87 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "the major surface" on line 12 of claim 50 render the claims indefinite because they lack antecedent basis. Recitations such as "channel" on line 13 of claim 81 render the claims indefinite because it is unclear whether or not the applicant is referring to the channel set forth above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 49, 51, 52, 56, 57 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Camperelli (US 6651390) in view of Beier (US 5836628). Camperelli

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discloses an astragal assembly for attachment to a passive door having interior and exterior surfaces opposite to one another and an outer edge extending from the exterior surface to the interior surface, the astragal assembly comprising:

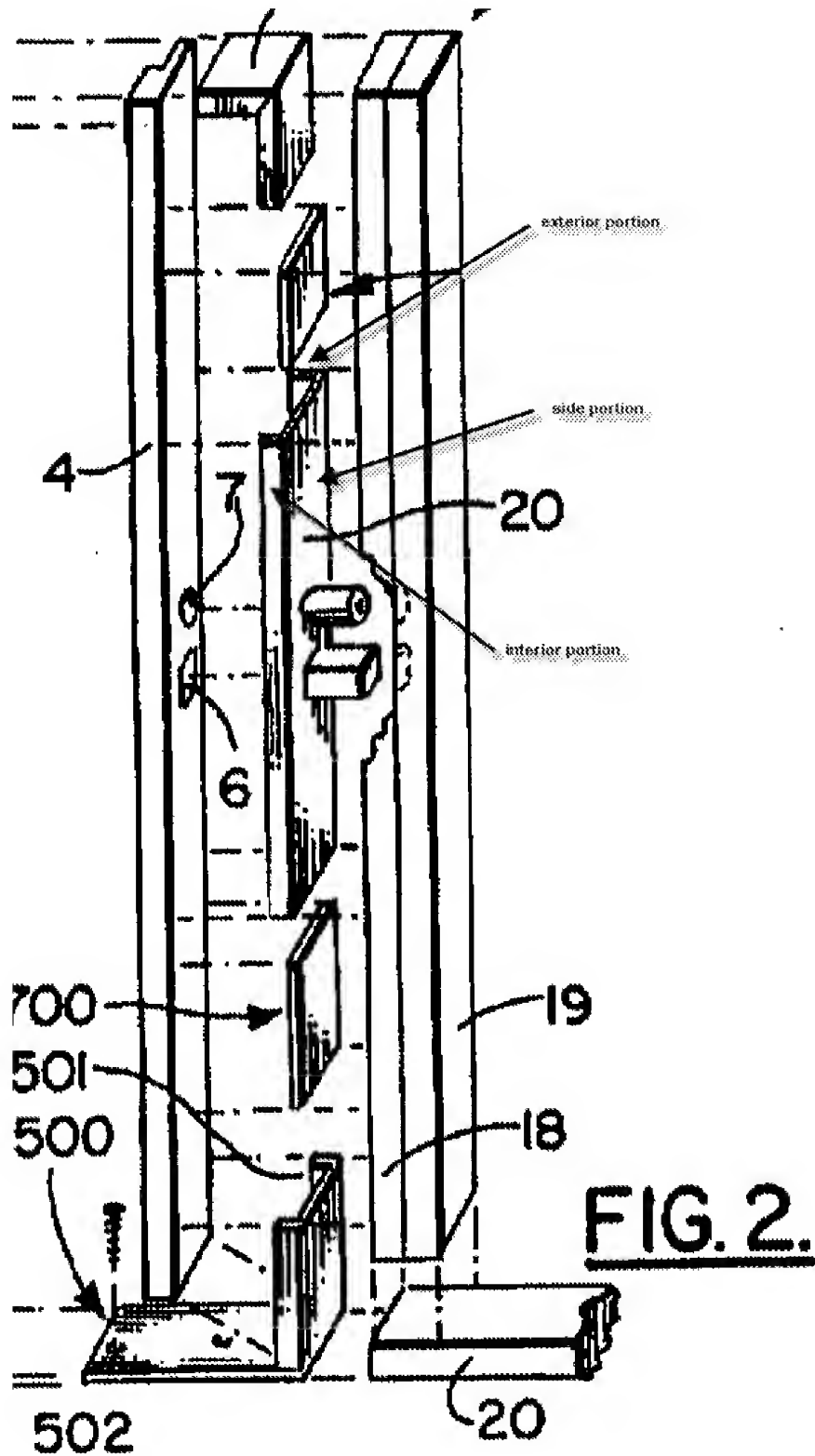
a frame 20 comprising an exterior portion (labeled below), an interior portion (labeled below) spaced from and situated opposite to the exterior portion to establish an elongated open channel there between, and a side portion (labeled below) extending between the exterior portion and the interior portion and adapted to be attached to the outer edge of the passive door, the elongated open channel having a channel opening extending between the exterior portion and the interior portion and opposed to the side portion;

a wooden insert 4 retained in the elongated open channel of the frame, the wooden insert having a groove 6 sized to accommodate a locking mechanism.

Camperelli is silent concerning a strike plate.

However, Beier discloses a strike plate hardware 49 attached to a wooden insert 12, the strike plate hardware having a strike plate opening 48 aligned with a groove in the wooden insert 12.

It would have been obvious to one of ordinary skill in the art to provide Camperelli with a strike plate, as taught by Beier, to more securely hold the latch when the door is closed.



Claims 49, 65 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudson (US 6082049) in view of Beier. Hudson discloses an astragal assembly for attachment to a passive door having interior and exterior surfaces opposite to one another and an outer edge extending from the exterior surface to the interior surface, the astragal assembly comprising:

a frame 2, 4, 6 comprising an exterior portion 2, an interior portion 6 spaced from and situated opposite to the exterior portion to establish an elongated open channel there between, and a side portion 4 extending between the exterior portion and the interior portion and adapted to be attached to the outer edge of the passive door, the elongated open channel having a channel opening extending between the exterior portion and the interior portion and opposed to the side portion;

a wooden insert 16 retained in the elongated open channel of the frame, the wooden insert having a groove 8 sized to accommodate a locking mechanism;

openings 23 (claim 65). Hudson is silent concerning a strike plate.

However, Beier discloses a strike plate hardware 49 attached to a wooden insert 12, the strike plate hardware having a strike plate opening 48 aligned with a groove in the wooden insert 12.

It would have been obvious to one of ordinary skill in the art to provide Hudson with a strike plate, as taught by Beier, to more securely hold the lock when the door is closed.

Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Camperelli in view of Beier as applied to claims 49, 51, 52, 56, 57 and 69 above, and further in view of Germano (US 5590919). Germano discloses a wooden insert comprising multiple wooden strips.

It would have been obvious to one of ordinary skill in the art to provide Camperelli, as modified above, with a wooden strip construction, as taught by Germano, to reduce the cost of manufacturing the assembly.

Claims 53, 67 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudson in view of Beier as applied to claims 49, 65 and 70 above, and further in view of Germano (US 5590919). Germano discloses a wooden insert comprising multiple wooden strips.

It would have been obvious to one of ordinary skill in the art to provide Camperelli, as modified above, with a wooden strip construction, as taught by Germano, to reduce the cost of manufacturing the assembly.

Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Camperelli in view of Beier as applied to claims 49, 51, 52, 56, 57 and 69 above. Camperelli, as modified above, discloses a metal frame, but is silent concerning the specific type of metal.

However, the examiner takes official notice that aluminum is well known to one having ordinary skill in the art and it would have been obvious to one of ordinary skill in

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the art to make the frame of Camperelli, from aluminum to make the frame more corrosion resistant.

Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over Camperelli in view of Beier as applied to claims 49, 51, 52, 56, 57 and 69 above, and further in view of Schoultz (US 4242848). Schoultz discloses a metal frame having an exterior portion 3 and an interior portion 3 each having a respective hook 4 that extends into a wooden channel 23 and 23'.

It would have been obvious to one of ordinary skill in the art to provide Camperelli, as modified above, with hooks and channels, as taught by Schoultz, to more securely attach the wooden insert to the frame.

Claims 81-84, 86 and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright (US 6453616) in view of Massey et al. (US 6491326). Wright discloses an astragal 10 comprising:

a frame 26, 28 comprising an exterior portion 28 having a first side 124 and a second side 122 and comprising an exterior flange 126 extending from the first side and a stop 128 extending from the second side, an interior portion 52 spaced from and opposed to the exterior portion and comprising an interior flange opposite from and substantially parallel to the exterior flange, a side portion 50 extending between the exterior portion and the interior portion, a fastener formation 110 disposed on a major surface of the side portion, and a spacer 86 protruding from the major surface of the

side portion in a direction that is substantially perpendicular to the major surface and substantially parallel to said interior flange; wherein the exterior portion, the interior portion, and the side portion collectively form a channel, with the spacer extending away from the channel; and

an insert member 30 retained substantially within the channel of the frame to present an outer surface, the insert member having a groove (not numbered, but shown in figure 5) sized to accommodate a locking mechanism. Wright is silent concerning a gasket and a strike plate.

However, Massey et al. discloses an astragal comprising a gasket 7 interconnecting a side portion 45 and an exterior portion 83 and a strike plate hardware 21 extending between the interior and exterior portions.

It would have been obvious to one of ordinary skill in the art to provide Wright with a gasket and a strike plate, as taught by Massey et al., to thermally isolate the exterior portion from the interior portion and to enable a latch to engage the astragal without damaging the astragal, respectively. It should be noted that the groove of the insert member 30 extends the entire length of the astragal. Therefore, the opening of the strike plate would align with the groove as long as it is mounted on the side portion 50. Additionally, the strike plate would be attached to the outer surface of the insert member 30 since the strike plate is attached to the side portion 50 which is attached to the insert member 30.

Claims 49, 50, 54, 58-64 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright in view of Massey et al. as applied to claims 81-84, 86 and 87 above. Wright, as modified above, is silent concerning the material of the insert member 30.

However, the examiner takes official notice that wood is well known to one having ordinary skill in the art and it would have been obvious to one of ordinary skill in the art to make the insert member of Wright, from wood so that the wooden door and the insert member can be made as one integral unit.

With respect to claim 63, a tubular portion is formed by the insert 140 as shown in figure 5.

Response to Arguments

Applicant's arguments filed September 8, 2009 have been fully considered but they are moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory J. Strimbu/
Primary Examiner, Art Unit 3634